

Message Text

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ACTION L-03

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R 311938Z JAN 78
FM AMEMBASSY LONDON
TO SECSTATE WASHDC 2651

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E.O. 11652:N/A
TAGS: PDIP, UK (HENMAN, ANTHONY RICHARD)
SUBJ: EXTRADITION: ANTHONY RICHARD HENMAN

REF: DEPARTMENT'S A-4915 OF DECEMBER 8, 1977

1. EMBASSY HAS RECEIVED LETTER FROM OFFICE OF DIRECTOR
OF PUBLIC PROSECUTIONS REGARDING OUR REQUEST FOR
EXTRADITION FROM U.K. OF RICHARD ANTHONY HENMAN. DEPAR-
MENT IS REQUESTED TO BRING CONTENTS TO ATTENTION OF
APPROPRIATE U.S. AUTHORITIES FOR REPLY. THE CONTENTS
OF LETTER ARE QUOTED BELOW.

2. QUOTE: RE: ANTHONY RICHARD HENMAN. MR. KEW AND I
HAVE NOW HAD AN OPPORTUNITY OF CONSIDERING THE EVIDENCE
IN THIS CASE. I REGRET THAT THERE ARE A NUMBER OF

POINTS WHICH WILL REQUIRE CONSIDERATION BY THE AUTHORI-
TIES IN NEW YORK BEFORE THE CASE CAN PROCEED. THESE
ARE: -
LAW

1. IT WOULD APPEAR FROM THE AVAILABLE EVIDENCE THAT
HENMAN WAS PRESENT IN THE UNITED STATES IN RESPECT OF
COUNT 6 (POSSESSING COCAINE WITH INTENT TO DISTRIBUTE)
AND IN PART FOR COUNT 13 (THE CONSPIRACY) WHEN IN JULY
1971 HE DISCUSSED THE SCHEME FOR OBTAINING COCAINE.

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ALL HIS OTHER ACTS IN RELATION TO THE OTHER SUBSTAN-
TIVE CHARGES IN COUNTS 4 AND 5 AND 7 THROUGH 12 AND FOR
THE CONSPIRACY IN COUNT 13 WERE APPARENTLY COMMITTED
OUTSIDE THE UNITED STATES IN BOGATA.

SO FAR AS ENGLISH LAW IS CONCERNED ACTS DONE ABROAD
WHICH HAVE A CRIMINAL EFFECT IN ENGLAND ARE ADMISSIBLE
IN EVIDENCE AND THE ENGLISH COURTS HAVE JURISDICTION

OVER SUCH OFFENCES.

IT WOULD THEREFORE BE VERY HELPFUL IN CONSIDERING
CORRESPONDING OFFENCES IF THE ASSISTANT U.S. ATTORNEY
WOULD DEPOSE THAT THE SAME PRINCIPLE APPLIES IN UNITED

STATES LAW.

2. THE EVIDENCE AGAINST HENMAN IS THE UNCORROBORATED
EVIDENCE OF TWO ACCOMPLICES, NAMELY HANNESON AND
WARSHAW.

IN ENGLISH LAW A JURY MAY CONVICT ON THE UNCORROBORA-
TED EVIDENCE OF AN ACCOMPLICE FOR THESE OFFENCES PRO-
VIDING THE JUDGE WARNS THE JURY OF THE DANGERS OF
CONVICTING ON SUCH TAINTED EVIDENCE.

BY WAY OF BACKGROUND I WONDER WHETHER THIS POSITION
APPLIES IN THE UNITED STATES.

I NOTE THAT WARSHAW PLEADED GUILTY TO THE CONSPIRACY
TO SATISFY OUR LAW EVIDENCE SHOULD BE GIVEN REGARDING
THE DATE AND EXTENT OF HIS SENTENCE.

3. TO COMPLY WITH ARTICLE III(1)(C) AND ARTICLE VII
(2)(D)(II) THE U.S. ATTORNEY SHOULD DEPOSE THAT ALL THE
OFFENCES ARE FELONIES.

A STATEMENT OF FACTS WILL BE REQUIRED BY VIRTUE OF
ARTICLE VII(2)(B).

4. THERE ARE DOUBTS IN ENGLISH LAW WHETHER IMPORTATION
OF DRUGS ARE EXTRADITABLE OFFENCES AND THE POINT HAS

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YET TO BE RULED UPON BY THE COURTS.

HOWEVER, THE COUNTS RELATING TO THE IMPORTATION
(COUNTS 4, 7 AND 10) APPEAR TO BE DUPLICATE OFFENCES
HAVING REGARD TO THE POSSESSION COUNTS AND ACCORDINGLY
IF THE IMPORTING OFFENCES WERE TO FAIL FOR THIS
TECHNICAL REASON NO REAL HARM WOULD BE DONE.

I ASSUME THAT THE BASIS FOR JURISDICTION REGARDING
THE POSSESSION OF THE DRUGS IN THE AIRCRAFT IS BASED
UPON THE PRESENCE OF THE AIRCRAFT IN THE TERRITORY OF
THE UNITED STATES (COUNTS 5, 8 AND 11) AND AS SUCH I DO
NOT SEE ANY DIFFICULTIES SO FAR AS OUR COURTS ARE
CONCERNED.

IF THE AVIANCE AIRCRAFT ARE AMERICAN CONTROLLED,
JURISDICTION WOULD LIE IN THIS COUNTRY FOR POSSESSION
OF DRUGS ABOARD THE AIRCRAFT WHILST OUTSIDE THE TERRI-
TORY OF THE UNITED STATES BUT IT DOES NOT SEEM TO ME
THAT THIS EXTENSION IS NECESSARY IN THIS CASE.

SUBJECT TO THE ABOVE POINTS AND THE EVIDENTIAL
MATTERS SET OUT BELOW I INCLINE TO THE VIEW THAT THESE
OFFENCES ARE EXTRADITABLE.

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EVIDENCE

1. UNLESS THERE IS SCIENTIFIC EVIDENCE THAT THE DRUGS WERE IN FACT COCAINE THEN I REGRET THAT NONE OF THE SUBSTANTIVE CHARGES CAN BE SUFFICIENTLY PROVED FOR OUR PURPOSES.

I DOUBT IF ANY OF THE DRUGS WERE EVER SEIZED AND EXAMINED BY THE AUTHORITIES BUT I SHOULD BE GRATEFUL IF ENQUIRIES COULD BE MADE.

IF THIS IS SO THE CASE WILL HAVE TO BE CONFINED TO THE CONSPIRACY COUNT.

2. THE EVIDENCE SUPPLIED IS THE VERY MINIMUM AND IF THE CASE IS TO COME BEFORE THE MAGISTRATE I CONSIDER THAT THE REQUEST SHOULD, IF POSSIBLE, BE STRENGTHENED BY FURTHER EVIDENCE.

SOME OF THE EVIDENCE AGAINST HENMAN IS HEARSAY AND IF FIRST HAND EVIDENCE OF HENMAN'S ACTS AND THE DISCUSSIONS HE HAD IN BOGATA AND IN THE UNITED STATES CAN BE GIVEN BY THE OTHER ACCOMPLICES, E.G., ETRA, LYNCH, AND MCGRATH IT SHOULD BE SUPPLIED.

IT WOULD, OF COURSE, BE VERY HELPFUL IF I COULD BE SUPPLIED WITH ANY EVIDENCE AGAINST HENMAN WHICH COMES FROM NON-ACCOMPLICES AND IS THEREFORE UNTAINTED.
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DELAY

THE OFFENCES ARE VERY OLD AND I NOTE THAT THE GRAND JURY INDICTMENT IS DATED 1972. THE TWO WITNESSES DO NOT AFFIRM THE EVIDENCE WHICH THEY GAVE BEFORE THE GRAND JURY UNTIL JANUARY OF 1977.

THE EMBASSY BROUGHT THIS CASE TO THE ATTENTION OF THE DEPARTMENT IN MARCH 1973 AND MR. DOWLING GAVE INITIAL ADVICE ON LIMITED INFORMATION THEN BEFORE HIM IN MAY.

ALTHOUGH DELAY IS NOT NECESSARILY FATAL TO PROCEEDINGS UNDER OUR EXTRADITION ACTS THIS IS A POINT WHICH I MAY HAVE TO MEET IF PROCEEDINGS ARE BROUGHT AND IT WOULD THEREFORE BE OF GREAT ASSISTANCE IF THE DELAY COULD BE EXPLAINED.

IF THERE ARE ANY POINTS UPON WHICH YOU WOULD LIKE FURTHER CLARIFICATION OR ASSISTANCE MR. KEW WILL, OF COURSE, BE PLEASED TO DISCUSS THE CASE FURTHER.

WE WILL BE HAPPY TO ADVISE YOU IN DUE COURSE ON

RECEIPT OF THE ABOVE MATTERS. END QUOTE.

3. SHOULD PROSECUTING AUTHORITIES WISH TO DISCUSS MATTERS RAISED DIRECTLY WITH DPP, THEY SHOULD CONTACT MR. MICHAEL KEW, TEL. 01-213-5222.

BREWSTER

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